

AMERADA HESS CORP.

IBLA 78-24

Decided January 10, 1978

Appeal from decision by New Mexico State Office, Bureau of Land Management, canceling in part noncompetitive oil and gas lease NM 19708.

Affirmed.

1. Federal Employees and Officers: Generally -- Federal Employees and Officers: Authority to Bind Government

An agent of the Government has no authority to grant a right contrary to a statute of the Congress.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Known Geological Structure

Land included within a known geologic structure of a producing oil or gas field may be leased only by competitive bidding.

3. Oil and Gas Leases: Cancellation -- Oil and Gas Leases: Known Geological Structure

A noncompetitive oil and gas lease must be canceled where the land described therein was determined by the United States Geological Survey to be within a known geologic structure of a producing oil or gas field prior to the date of signing the lease on behalf of the United States by the authorized officer.

APPEARANCES: Edwin W. Parker II, Esq., Tulsa, Oklahoma, for Appellant.

## OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Amerada Hess Corporation 1/ appeals from a decision of the New Mexico State Office, Bureau of Land Management, dated September 14, 1977, which canceled noncompetitive oil and gas lease NM 19708 as to the SW 1/4 NW 1/4, W 1/2 SW 1/4 sec. 11, T. 21 N., R. 30 E., New Mexico principal meridian, because these parcels are within the known geologic structure of the Gallagher Field (Bueyeros Carbon Dioxide Area), as defined February 7, 1946.

The record shows that one William B. Scheidt filed offer to lease NM 19708 on October 19, 1973, for SE 1/4 NW 1/4 sec. 1, E 1/2 SE 1/4 sec. 2, SW 1/4 NE 1/4, NW 1/4 SE 1/4, S 1/2 SE 1/4 sec. 6, SW 1/4 SW 1/4 NW 1/4 sec. 11, and other lands in secs. 3, 4, 5, 8, 9, and 10, T. 21 N., R. 30 E., totalling 2,282.56 acres. The lease issued effective April 1, 1974, but following a report from the Geological Survey as to the known geologic structure of the Gallagher Field, BLM decision dated April 17, 1974, canceled the lease as to the lands sought in secs. 3, 4, 5, 8, 9, and 10, T. 21 N., R. 30 E., and left it intact as to 480 acres described in secs. 1, 2, 6, and 11. Inadvertently, the SW 1/4 NW 1/4, W 1/2 SW 1/4 sec. 11 were not included in the lands canceled from the lease although the plat of the Gallagher Field known geologic structure in the lease file clearly shows them to be included within the defined structure.

Appellant contends that a review of offer NM 19708 had been made by both BLM and Geological Survey, and that the lease bears a signed statement that of the lands included in the offer, only those in secs. 3, 4, 5, 8, 9, and 10 were within the Gallagher Field known geologic structure. In reliance upon the conclusions of BLM, the present lessees acquired the lease and should not now have their rights derogated by this new determination.

[1] It is well established that an agent of the Government has no authority to grant a right contrary to a statute of the Congress. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384 (1947); Utah Power & Light Co. v. United States, 243 U.S. 389, 409 (1976); Joseph T. Kurkowski, 15 IBLA 13 [\*\*4] (1974); Grady C. Price, Jr., 17 IBLA 98 (1974).

[2] Section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(b) (1970), provides that if the lands to be leased are within any known geologic structure of a producing oil or gas field, they shall be leased only by competitive bidding to the highest responsible qualified bidder.

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1/ Lease NM 19708 is held of record by Public Lands Exploration, Inc., but an assignment of the entire record title to Amerada Hess Corp. was filed with BLM on August 29, 1977.

[3] Where a noncompetitive oil and gas lease has been issued and includes lands within a known geologic structure which was defined prior to the issuance of the lease, such lease was erroneously issued and must be canceled to the extent that it included land within the known geologic structure. David A. Provinse, 27 IBLA 376 (1976); William T. Alexander, 21 IBLA 56 (1975); Solicitor's Opinion, 74 I.D. 285 (1967). See Boesche v. Udall, 373 U.S. 472 (1963).

In this case, the SW 1/4 NW 1/4, W 1/2 SW 1/4 sec. 11, T. 21 N., R. 30 E., New Mexico principal meridian, were defined by the Director, Geological Survey, as being within the known geologic structure of the Gallagher Field, effective February 7, 1946, and that determination has not since been revoked. Inclusion of those lands within noncompetitive lease NM 19708 was contrary to law so the lease must be canceled to that extent. The action taken by the New Mexico State Office to rectify its error was correct.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Frederick Fishman  
Administrative Judge

Joan B. Thompson  
Administrative Judge

